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# Thirty-fourth report of the Secretary-General pursuant to paragraph 14 of resolution 1284 (1999)

## I. Introduction

1. The present report is submitted pursuant to paragraph 14 of Security Council resolution 1284 (1999) and covers developments on the issues of missing Kuwaitis and third-country nationals and missing Kuwaiti property, including its national archives, since the issuance of my previous report, dated 14 June 2012 (S/2012/443). The present report also covers the outcome of my consultations in Iraq and Kuwait on 5 and 6 December with the two Governments on the role of the United Nations in facilitating the implementation of paragraph 14 of resolution 1284 (1999).

## II. Recent activities with regard to the repatriation and return of all Kuwaiti and third-country nationals, or their remains

2. Throughout the reporting period, Gennady Tarasov, the High-level Coordinator, actively promoted cooperation between Iraq and Kuwait in the search for missing Kuwaiti and third-country nationals, including during his two visits to the region in September and November. Working in close contact with the members of the Tripartite Commission and its Technical Subcommittee, the primary body dealing with the fate of persons unaccounted for since the Gulf War of 1990-1991, the Coordinator focused his efforts on facilitating joint exploratory missions, within the framework of the Technical Subcommittee and under the aegis of the International Committee of the Red Cross (ICRC), to sites in Iraq where those missing persons might have been buried. He also encouraged the intensification of Iraq's own investigations in different parts of the country, as well as the stepping up of its information-gathering efforts in order to make the work of field missions more precise and effective. Follow-up meetings of the Technical Subcommittee and the Tripartite Commission were held on 3 and 5 December, respectively.

3. A fifth field exploratory mission was conducted in Khamisiyah (southern Iraq) from 3 to 18 September. To date, more than 10,000 trenches have been dug in the search for remains. These efforts are still hampered, however, by a lack of precise information and have not yet yielded results.

4. In addition, Iraq conducted its own investigations to explore possible grave sites on its territory. These included, among others, excavations in Ramadi (central



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Iraq) and in the Samawah area (southern Iraq), where unidentified human remains were found. Anthropological data on the findings were sent to Kuwait via ICRC, with DNA samples for genetic identification to follow. Iraq also sent staff for training in Australia and indicated its intention to purchase new equipment for the localization and the exhumation of remains. According to available information, about 50 officials of the former Iraqi regime were visited in prison but denied any knowledge of possible grave sites where the remains of missing Kuwaitis might be discovered.

5. On 20 November, the Coordinator travelled to Baghdad where he met with Deputy Prime Minister of Iraq, Hussain al-Shahristani, and the Minister of Human Rights, Mohammed al-Sudani. Both reiterated their Government's determination to fulfil all its outstanding obligations with regard to Kuwait. The Deputy Prime Minister noted that although Iraq would prefer to terminate the mandate of the High-level Coordinator and address this issue bilaterally with Kuwait, Iraq would not object to folding this file into the mandate of the United Nations Assistance Mission for Iraq (UNAMI). Mr. Al-Sudani reconfirmed the commitment of Iraq to continue the search for missing persons in cooperation with Kuwait and the Tripartite Commission and its Technical Subcommittee.

6. On 21 November, the Coordinator travelled to Kuwait, where he met with the Deputy Prime Minister and Minister for Foreign Affairs, Sabah Al-Khaled Al Hamad Al Sabah, who reiterated the importance of Iraq complying with all of its outstanding obligations and the readiness of Kuwait to support Iraq in completing the process. He added that Kuwait did not expect the mandate to continue until all the missing were found, but additional progress was expected in the search for missing Kuwaitis.

## III. Recent activities with regard to the return of Kuwaiti property

7. The issue of missing Kuwaiti property, including the national archive, is an integral part of paragraph 14 of Security Council resolution 1284 (1999). Although a number of items were found in Iraq and returned to Kuwait during the reporting period, no significant progress has been made in the search for the national archive of Kuwait, nor has credible information about its fate or whereabouts emerged.

8. In his recent meetings with Iraqi officials, the Coordinator continued to urge the Government of Iraq to make full use of the recently created Iraqi committee on the Kuwaiti national archives and to report to the United Nations on the results of its activities. In September the Coordinator was informed that Kuwait had set up its own committee on the archives, chaired by the director of the international organizations department of the Foreign Ministry, which was waiting for an indication from Iraq on when both entities could meet in order to further work on the search for missing Kuwaiti property.

9. On 27 June, Iraqi and Kuwaiti representatives met for the purpose of returning Kuwaiti property consisting of tapes belonging to the archive of the official radio station of the State of Kuwait and two books belonging to the University of Kuwait. According to the minutes of the meeting shared with the Coordinator by the

Permanent Representative of Kuwait to the United Nations on 29 June (see annex I), the representative of the Ministry of Foreign Affairs of Kuwait noted:

> The return of some of the property is undoubtedly a step forward, that the Kuwaiti side hopes will be followed with the return of the more valuable and more important property, particularly the National Archives belonging to the Amiri Diwan, the Diwan of His Highness the Crown Prince and the Ministry of Foreign Affairs.

10. In a letter dated 1 October (see annex II), the Permanent Representative of Iraq to the United Nations informed the Coordinator that the Ministry of Foreign Affairs of Iraq had published an advertisement on its official website, as well as in a number of national newspapers, urging Iraqi citizens in possession of any documents or property belonging to the State of Kuwait to transmit them to the committee in charge of coordinating Iraqi efforts regarding the Kuwaiti national archive.

11. While the fate of the Kuwaiti national archive has yet to be discovered, Iraq has demonstrated, by finding other missing Kuwaiti property, that its credible and sustained efforts were bearing results.

## IV. Way forward

12. Pursuant to paragraph 14 of Security Council resolution 1284 (1999), since 2000, I have submitted 34 reports to the Security Council regarding the repatriation or return by Iraq of all Kuwaiti and third-country nationals or their remains, as well as the return of all Kuwaiti property, including archives, seized by Iraq.

13. While the remains of 236 Kuwaitis have been found in Iraq by Kuwaiti search and exhumation teams in 2003 and 2004, attempts to find the remains of 369 Kuwaitis have been unsuccessful since then, despite commendable goodwill demonstrated by Iraq. With regard to missing Kuwaiti property, Iraq has recovered and delivered to Kuwait a number of items such as the archive of official Kuwaiti television and radio stations, microfilm archives of Kuwaiti newspapers and old banknotes and coins, as well as the keys to safes from the Central Bank of Kuwait. There has, however, been little progress in the search for the national archive.

14. In all of my reports to the Council, including that dated 8 April 2009 (S/2009/190) and the report submitted pursuant to paragraph 5 of Security Council resolution 1859 (2008) of 27 July 2009 (S/2009/385), I have called upon both sides to pursue cooperation and implement confidence-building measures to foster progress in the resolution of the humanitarian issue of missing Kuwaiti persons and property. In my previous report, which the Security Council welcomed in a press statement of 20 June 2012, I also expressed my belief that Iraq and Kuwait should begin exploring other arrangements to consolidate efforts in the search for missing Kuwaiti nationals and property.

15. Over the course of the year, the Governments of Iraq and Kuwait have held consultations and exchanged letters on this issue, and they conveyed to me their respective positions regarding the future implementation of paragraph 14 of Security Council resolution 1284 (1999).

16. On 18 June 2012, the Minister for Foreign Affairs of Iraq, in a letter to me, had requested that the mandate of the High-level Coordinator be terminated and dealt

with through bilateral channels, possibly in cooperation with ICRC or UNAMI (see annex III).

17. In a letter dated 20 July 2012 to the President of the Security Council (S/2012/567), Kuwait expressed the hope that the Security Council would appoint another High-level Coordinator or a Special Representative of the Secretary-General, adding that "it would be appropriate if such a High-level Coordinator or Special Representative were to follow up on all of Iraq's outstanding international obligations" (see S/2012/567). However, in a subsequent letter, dated 17 September 2012, to the Minister for Foreign Affairs of Iraq, Hoshyar Zebari, Kuwait clarified its position to Iraq. In the letter, which was shared with the United Nations, Kuwait expressed the hope that the Security Council would establish a new mechanism under Chapter VI of the Charter of the United Nations through either: (a) the appointment of a new High-level Coordinator; (b) the appointment of a new Special Representative; or (c) the expansion of the mandate of UNAMI to include the issues of missing Kuwaiti and third-country nationals and missing Kuwaiti property. The letter further stated that this would happen after the fulfilment on the ground of Iraq's other outstanding obligations, specifically those related to the border.

18. During my recent visit, I held intensive follow-up discussions with the Governments of the two countries on the continuation of United Nations activities in this regard. Both parties reiterated their respective positions, and, welcoming a continued United Nations role, were amenable to folding those activities into the UNAMI mandate, but under certain conditions for Kuwait, most notably the fulfilment by Iraq of its border-related obligations.

19. During my consultations with the leadership of Kuwait and Iraq, I also impressed on both countries that a historic opportunity was at hand to put the past behind them and usher in a new era of cooperation. Taking into account the positions previously expressed by their respective Governments, I shared with them my view that UNAMI, with its large human rights presence and offices in Iraq and Kuwait and its ability to engage with relevant authorities in both countries, could be well positioned to address these issues on a continuous basis inside Iraq. I also emphasized the imperative for Iraq to move quickly in fulfilling all of its obligations under relevant Security Council resolutions.

## V. Observations

20. Iraq continues to make steady progress towards regaining its rightful place in the region, the Arab world and the broader international community as a founding member of the United Nations. I fully recognize the importance of the issues of missing Kuwaiti persons and property for the Government and people of Kuwait. While I believe that Iraq has demonstrated goodwill on the issue of missing persons, it can do more in that regard, and even more on the issue of missing property, including archives.

21. I am encouraged by the positive momentum generated by the visits of the Prime Minister of Iraq to Kuwait on 14 and 15 March and the Emir of Kuwait to Baghdad to attend the League of Arab States Summit on 29 March, as well as the second session of the Joint Kuwait-Iraq Ministerial Committee on 29 April, to address all outstanding issues and normalize relations. I hope that this spirit of

positive cooperation will continue and will usher in a renewed period of confidence-building between the two parties.

22. I welcome the initiative of the Iraqi Committee coordinating the search for Kuwaiti missing property, including the national archive, to place advertisements in the Iraqi press and on the Ministry of Foreign Affairs website. I look forward to the Committee's sustained efforts to ascertain the whereabouts of the Kuwaiti national archive, and encourage the members of the Iraqi Committee to meet with their Kuwaiti counterparts at the earliest possible time to further discuss modalities for both to sides to work together on the matter.

23. I would like to acknowledge the leading role of ICRC in the task of resolving the issue of missing persons, and the support and contribution of Kuwait, as well as other members of the Tripartite Commission and its Technical Subcommittee. Joint exploratory missions in Iraq within the framework of the Commission under the aegis of ICRC appear to be an appropriate and concrete mechanism for probing the fate of missing Kuwaiti and third-country nationals.

24. During my recent visit to the two countries and in my meetings, in particular with the Emir of Kuwait and the Prime Minister of Iraq, I witnessed a positive disposition on the part of both parties to move forward and address outstanding issues, which, I trust, will be conducive to further progress on the issues of missing Kuwaiti persons and property. Based on my consultations with the two Governments, I believe that intensified United Nations activities on the ground in assisting the Government of Iraq could yield concrete results on the issue of Kuwaiti missing persons and property. UNAMI could be particularly well suited for this task, in which case I would continue to report to the Security Council on the implementation and progress made on both issues. In this context, I would take into account the overall progress made by Iraq in the implementation of all its outstanding Chapter VII obligations, most notably the urgent need for tangible progress on its outstanding international obligations concerning the Iraq-Kuwait boundary maintenance project (Security Council resolution 833 (1993)) and the compensation of farmers (Security Council resolution 899 (1994)).

25. I view the next few months as a crucial confidence-building period between Iraq and Kuwait that will hopefully lead to the expeditious resolution of outstanding multilateral and bilateral issues between them. During this interim period, the two parties can count on the full support of the United Nations to facilitate the normalization of their relations. I am committed to resolving the issues of missing Kuwaiti and third-country nationals and missing Kuwaiti property as soon as possible with the cooperation of the two parties. I look forward to working closely with the Governments of Iraq and Kuwait both directly and through my representatives in this regard. In light of the efforts of my High-level Coordinator during his recent mandates, I am still exploring the best approach for the next period for the work of the United Nations in this field. I am considering several options. These include asking UNAMI to fulfil this role, an approach both parties noted was acceptable to them; appointing an interim coordinator under the existing financial arrangements; replacing the current High-level Coordinator upon his retirement with another; or asking someone from United Nations Headquarters to assume this mandate.

26. Finally, I would like to take this opportunity to thank Mr. Tarasov, who will be ending his tenure as High-level Coordinator on 31 December, for his efforts in carrying out the tasks entrusted to him.

# Annex I

## Letter dated 29 June 2012 from the Permanent Representative of Kuwait addressed to the High-level Coordinator

[Original: English]

It is my pleasure to attach herewith the minutes of the meeting held on 27 June 2012 for the purpose of receiving Kuwaiti property from the Republic of Iraq, consisting of tapes belonging to the Radio Station of the State of Kuwait as well as the minutes of the meeting held on the same day, for the purpose of receiving Kuwaiti property from the Republic of Iraq consisting of books belonging to the University of Kuwait (see enclosures).

(*Signed*) Mansour **Al Otaibi**
Ambassador
Permanent Representative

## Enclosure

[Original: Arabic]

### Protocol of receipt of Kuwaiti property from the Republic of Iraq consisting of tape recordings belonging to Kuwait Radio

27 June 2012

On 27 June 2012, in accordance with the relevant Security Council resolutions, the State of Kuwait received from the Republic of Iraq 27 crates containing tape recordings belonging to the archives of Kuwait Radio that had been seized by the former Iraqi regime during its occupation of Kuwait in 1990.

The items were received at the headquarters of the Ministry of Foreign Affairs of Kuwait in the presence of a representative of the Ministry of Foreign Affairs, a representative of the Ministry of Information, a representative of the Iraqi Ministry of Foreign Affairs and a representative of the Embassy of the Republic of Iraq to Kuwait. This protocol was prepared and signed in the presence of the representative of the United Nations office in Kuwait.

The representative of the Ministry of Foreign Affairs said that this partial recovery of property was undoubtedly a step forward, and that the Kuwait side hopes that it will be followed by the return of more valuable and significant property, including, in particular, the national archives belonging to the Amiri Diwan, the Diwan of the Crown Prince and the Ministry of Foreign Affairs.

**State of Kuwait**

(*Signed*) Jasim Mubarak **al-Mubaraki**
Director, Department of International Organizations, Ministry of Foreign Affairs

(*Signed*) Yusuf Mustafa **Abudullah**
Assistant Deputy for Broadcasting Affairs, representative of the Ministry of Information

**United Nations**

(*Signed*) Hashim Hassan **Ali**
Operations Manager, United Nations Development Programme in Kuwait

**Republic of Iraq**

(*Signed*) Muhammad Hussein Muhammad **Bahr al-Ulum**
Ambassador of the Republic of Iraq to the State of Kuwait

(*Signed*) Mu'ad Abdulwahhab **Abdulrazzaq**
Compensations Office, Department of Legal Affairs, Ministry of Foreign Affairs

## Enclosure 2

[Original: Arabic]

### Protocol of receipt of Kuwaiti property from the Republic of Iraq consisting of books belonging to the University of Kuwait

27 June 2012

On 27 June 2012, in accordance with the relevant Security Council resolutions, the State of Kuwait received from the Republic of Iraq two books belonging to the University of Kuwait that had been seized by the former Iraqi regime during its occupation of Kuwait in 1990.

The items were received at the headquarters of the Ministry of Foreign Affairs of Kuwait in the presence of a representative of the Ministry of Foreign Affairs, a representative of the Ministry of Information, a representative of the Iraqi Ministry of Foreign Affairs and a representative of the Embassy of the Republic of Iraq to Kuwait. This protocol was prepared and signed in the presence of the representative of the United Nations office in Kuwait.

The representative of the Ministry of Foreign Affairs said that this partial recovery of property was undoubtedly a step forward, and that the Kuwait side hopes that it will be followed by the return of more valuable and significant property, including, in particular, the national archives belonging to the Amiri Diwan, the Diwan of the Crown Prince and the Ministry of Foreign Affairs.

**State of Kuwait**

(*Signed*) Jasim Mubarak **al-Mubaraki**
Director, Department of International Organizations, Ministry of Foreign Affairs

(*Signed*) Yusuf Mustafa **Abudullah**
Assistant Deputy for Broadcasting Affairs, representative of the Ministry of Information

**United Nations**

(*Signed*) Hashim Hassan **Ali**
Operations Manager, United Nations Development Programme in Kuwait

**Republic of Iraq**

(*Signed*) Muhammad Hussein Muhammad **Bahr al-Ulum**
Ambassador of the Republic of Iraq to the State of Kuwait

(*Signed*) Mu'ad Abdulwahhab **Abdulrazzaq**
Compensations Office, Department of Legal Affairs, Ministry of Foreign Affairs

# Annex II

[Original: English]

## Letter dated 1 October 2012 from the Permanent Representative of Iraq to the United Nations addressed to the High-level Coordinator

Upon instruction from my Government, I have the honour to inform you that the Iraqi Ministry of Foreign Affairs has republished an advertisement in the official Ministry's website and in a number of local Iraqi newspapers such as Al-Zaman, issues 4307 and 4308, Al-Sabah, issues 2637, 2638 and 2639, Al-Sabah al-Jadeed, issues 2385, 2386 and 2387, Al-Bayan, issues 1020, 1021 and 1022, Al-Etehad, issues 3072, 3073 and 3074, Al-Alam, issues 660, 661 and 662, Al-adala, issues 2512, 2513 and 2514, Al-Muwattin, issue 1726, Tareq al-Shaal, issue 32, Al-Mashriq, issues 2461, 2462 and 2463, Al-Mada, issues 2595, 2596 and 2597 and Al-Bayena, issues 1656, 1657 and 1658 which urges Iraqi citizens in possession of any documents or property belonging to the State of Kuwait to transmit them to the Committee in charge of coordinating the efforts regarding the Kuwaiti archives established in the Iraqi Ministry of Foreign Affairs as a part of Iraq's obligations before the international community. Please find attached the text of the advertisement (see enclosure).

(*Signed*) T. Hamid **Al-Bayati**
Ambassador Extraordinary and Plenipotentiary
Permanent Representative

## Enclosure

[Original: Arabic]

**Announcement**

The Ministry of Foreign Affairs calls on all decent citizens who have information regarding property or documents that belong to the State of Kuwait to contact our Ministry with a view to seeing that they are returned to Kuwait, in accordance with United Nations Security Council resolutions.

Cooperation with the Ministry is an act of patriotism that will help to resolve various matters with which we have been saddled as a result of the crimes committed by the former regime, and will help Iraq regain its status in the international community.

Those who provide information will be rewarded by the Ministry and will have performed a valuable service for their country.

**Announcement**

The Ministry of Foreign Affairs and the Ministry of Human Rights call on all decent citizens to come forward with any information they might have regarding persons who went missing in the Kuwait war and their whereabouts.

The Iraqi Government has made assiduous efforts to find those missing persons or recover their remains. We have thus far succeeded in finding 236 missing persons, but another 373 are still missing. Accomplishing this task is part of our international obligations. Providing information regarding those missing persons will help our beloved country free itself of the burdens with which it has been saddled as a result of the crimes committed by the former regime, and will safeguard Iraq's reputation and standing in the international community.

## Annex III

[Original: English]

### Note verbale dated 27 June 2012 from the Permanent Mission of Iraq to the United Nations addressed to the Office of the Secretary-General

The Permanent Mission of the Republic of Iraq to the United Nations presents it compliments to the Office of the Secretary-General and in reference to its note verbale dated 18 June 2012 has the honour to attach herewith the letter from Hoshyar Zebari, Minister for Foreign Affairs of the Republic of Iraq addressed to Ban Ki-moon, the Secretary-General of the United Nations (see enclosure).

The Permanent Mission of the Republic of Iraq would deeply appreciate it if the attached letter could kindly be forwarded to its highest destination.

## Enclosure

[Original: Arabic]

18 June 2012

We should like to refer to the letter that we addressed to you, dated 5 July 2011, in which we proposed that the mandate of Ambassador Gennady Tarasov, the Secretary-General's High-level Coordinator on the issue of missing Kuwaiti and third-country nationals and the repatriation of Kuwaiti property, should be terminated and the matter addressed bilaterally by Iraq and Kuwait.

You are aware of the efforts that have been exerted by Iraq with a view to resolving this question, and of the consultations that Iraq has held with the States that are permanent members of the Security Council, which have led to perceptible progress being made towards the transference of the question to bilateral relations. We should therefore like to request the Security Council, through you, to close the question and transfer it to bilateral relations, by sending a Kuwaiti team that will be based in Iraq, either at a headquarters location to be determined by mutual agreement or within the Kuwaiti Embassy in Baghdad, in order to complete work on the outstanding issues in cooperation with the Iraqi team. That step would bring the mandate of the High-level Coordinator to a close, either immediately or by the end of 2012 at the latest. The joint team would cooperate with the International Committee of the Red Cross (ICRC), which has expressed its readiness to cooperate with regard to this question in its capacity as a humanitarian organization, or with the United Nations Assistance Mission for Iraq (UNAMI). The Security Council could then adopt a resolution releasing Iraq from its obligations under Chapter VII of the Charter of the United Nations in respect of this question.

Among the proposals raised in the course of our discussions with some States members of the Security Council was the idea of transferring the question from Chapter VII to Chapter VI of the Charter and addressing it bilaterally under the supervision of ICRC or UNAMI.

We wish to emphasize that Iraq is committed to continuing the search for missing persons. It is fully determined to address this poignant humanitarian issue, which is of such importance to the Kuwaiti families that lost loved ones. We also emphasize that the establishment of a bilateral committee, as proposed, would allow us to cooperate directly in resolving this humanitarian question.

We hope that you will understand Iraq's sincere position on the resolution of this question, and that you will provide the necessary support for the successful fulfilment of that task.

Accept, Sir, the assurances of my highest consideration.

(*Signed*) Hoshyar **Zebari**
Minister for Foreign Affairs of the Republic of Iraq